

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Order re implementation of the Regional Greenhouse )  
Gas Initiative auction procedures and disbursement of )  
auction proceeds )

Order entered: 7/18/2008

**I. INTRODUCTION**

The Regional Greenhouse Gas Initiative ("RGGI") is a cooperative effort by ten Northeastern and Mid-Atlantic states, including Vermont, to reduce carbon dioxide emissions – a greenhouse gas that contributes to global climate change. Central to this initiative is the implementation of a multi-state cap-and-trade program with a market-based emissions trading system. The Public Service Board ("Board") has been tasked by statute, 30 V.S.A. § 255, to implement the auction provisions of the RGGI program.

The Board directed staff to conduct a series of workshops to implement Section 255. As a result of these workshops, Board staff issued a Report and Recommendation ("Staff Report") on June 30, 2008 (attached). In summary, the Staff Report recommends: (1) a model for a Trustee; (2) a procedure for disbursing auction proceeds; and (3) a process for retiring CO<sub>2</sub> allowances in proportion to participating in voluntary renewable programs. Additionally, the Staff Report recommends that the existing Energy Efficiency Utility fiscal agent be appointed as the Trustee. The workshop participants have been provided an opportunity to comment on the Staff Report. After considering the Staff Report and the comments, we adopt Staff's Report and Recommendation, with the modifications and clarifications set forth below.

## **II. COMMENTS OF PARTICIPANTS**

Three workshop participants filed comments in response to the Staff Report: The Group of Municipal Electric Utilities ("Municipals")<sup>1</sup>; Green Mountain Power Corporation ("GMP"); and Native Energy.

The Municipals addressed several issues, as described below.

The Municipals agree with the Staff Report's proposal to follow a hybrid model in which the Trustee would perform the necessary ministerial functions and the Board retains decision-making authority. The Municipals also support the Staff Report's recommendation that an Advisory Committee be formed to provide comments on the actions of the Trustee to the Board.

The Municipals express concern with the Staff Report's recommendation that the contractor serving as the Energy Efficiency Utility ("EEU") Fiscal Agent be appointed as Trustee without a competitive bid process. The Municipals recognize that such an appointment might be necessary due to the short time frame needed in order to participate in the September auction, but recommend that the contract with Batchelder Associates be limited to a one-year term, and a formal competitive bid process be utilized for future selections of the Trustee.

The Municipals generally agree with the Staff Report's recommendation that RGGI, Inc., be responsible for market analysis and auction monitoring. The Municipals request that any reports from RGGI, Inc., be posted on the Board's website and the Board provide notice to interested parties when new reports are posted. The Municipals further request that the contract with RGGI, Inc. be limited to a one-year term to allow replacement if RGGI, Inc., is not meeting Vermont's needs.

The Municipals request that the reporting requirements associated with the voluntary renewable set-aside program not be duplicative of other reporting requirements. In particular, the Municipals are concerned with possible participation in the Clean Energy Development Fund as a voluntary renewable pricing program. The Municipals support the Staff Report's

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1. Barton Village Inc. Electric Department; Village of Enosburg Falls Water & Light Department; Town of Hardwick Electric Department; Village of Hyde Park Electric Department; Village of Jacksonville Electric Company; Village of Johnson Water & Light Department; Village of Ludlow Electric Light Department; Village of Lyndonville Electric Department; Village of Morrisville Water & Light Department; Village of Northfield Electric Department; Village of Orleans Electric Department; Town of Readsboro Electric Light Department; and Swanton Village, Inc. Electric Department.

recommendation to use the New England Power Pool Generation Information System's marginal CO<sub>2</sub> emissions rate to calculate the number of allowances to be set aside for voluntary renewable programs, but suggest that the Board specify the use of the "NEPOOL Residual Mix" in performing this calculation.

GMP generally supports the Staff Report's recommendations regarding the Trustee model and the release of 2009 CO<sub>2</sub> allowances on an even basis across each auction during the control period. GMP further supports the initial appointment of Batchelder Associates, provided that the cost and effectiveness of the Trustee are reviewed within a reasonable period of time. GMP also supports the Staff Reports's proposal that an annual audit of the Trustee be conducted, and notes that the scope and budget of the audit should be fairly limited, based upon the limited scope of the Trustee's activities.

GMP further supports the set-aside of CO<sub>2</sub> allowances to be retired in proportion to participation in voluntary renewable programs. GMP supports the initial cap of one percent of allowances for the set-aside program, but recommends that the Board periodically review the cap and determine if it is appropriate to increase the cap, if warranted. Finally, GMP states that the Staff Report's recommendation to use the marginal CO<sub>2</sub> emissions rate is reasonable, and suggests that the Board solicit further input to clarify how this process would be implemented.

Native Energy expresses concern with whether the Staff Report is proposing that the set-aside for voluntary renewable programs is limited to programs offered by Vermont electric utilities, rather than being open to renewable-energy-credit purchases made from any qualifying party. Native Energy contends that the set-aside should be open to any Vermont customer that purchases renewable energy or renewable energy credits, as these purchases would help lower the state's carbon profile. Native Energy contends that to limit the set-aside to utility-sponsored programs would limit Vermonters' options.

### **III. DISCUSSION**

The Board adopts the Staff Report's proposal for a Trustee model where the Trustee would fulfill the ministerial tasks of releasing RGGI CO<sub>2</sub> allowances to auction and collect and disburse proceeds pursuant to Board direction. An Advisory Committee would also be

established that would have the opportunity to file comments on the disbursement of proceeds. In addition, to ensure the effectiveness of this new program, the Trustee model would be reviewed annually for the first three years, as proposed in the Staff Report.

In order to participate in the September 2008 RGGI auction, the Board must have a Trustee in place. The Staff Report recommends that the Board appoint Batchelder Associates, the EEU Fiscal Agent contractor, as the Trustee. Section 255 states that the Board may appoint a Trustee "by rule, order, or competitive solicitation," and further provides that the Trustee "may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution . . . ." Appointing Batchelder Associates in this Order is clearly within the discretion afforded by statute.<sup>2</sup> The Board agrees with Participants' comments regarding a limited initial term for the contractor serving as Trustee; it is useful to have a review of the effectiveness of the Trustee to ensure that the state's ratepayers receive the maximum benefits of the RGGI program. The Board will enter into negotiations with Batchelder Associates for a one-year contract to serve as Trustee. The Board intends to subsequently conduct a competitive solicitation process to select a Trustee after Batchelder Associates' contract ends. The Board will solicit input, from the Advisory Committee, regarding the scope of the independent audit of the Trustee at a later date.

The Municipals request that the Board post any reports from RGGI, Inc., on the Board's website and notify interested participants when new reports are posted. The Board will develop a process for informing interested parties regarding the RGGI auction process in collaboration with the Advisory Committee developed under the Trustee model envisioned by the Staff Report.

The Municipals also recommend that the Board limit its contract with RGGI, Inc., to a one-year term to ensure the effectiveness of the auction monitoring and market analysis performed by RGGI, Inc. RGGI, Inc., was formed, through agreement by all RGGI states, to facilitate the RGGI auction and provide technical support to the states, and all RGGI states have

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2. Even if the state contracting rules do apply, state contracting rules do not require that a competitive solicitation be issued for contracts under \$15,000, although such a process is encouraged. Given the limited scope of the work associated with the position of Trustee, it is unlikely that a one-year contract to serve as Trustee would be greater than \$15,000; consequently, the appointment of Batchelder Associates would likely comply with state contracting rules as well.

entered into a contract, or intend to enter into a contract, with RGGI, Inc. The Board of Directors of RGGI, Inc., is composed of the heads of the environmental and energy agencies of each of the ten RGGI states. RGGI, Inc., contracts out the auction-implementation and market-monitoring functions; if the contractors serving these functions are inadequate, Vermont, through its participation on the Board of Directors of RGGI, Inc., may choose new contractors for these functions. In addition, the contract with RGGI, Inc., allows for the termination of the contract by Vermont, with or without cause. We thus see no need to limit the contract with RGGI, Inc., to a single year.

The Staff Report recommends that the Board permit allowances to be set-aside and retired in proportion to participation in voluntary renewable programs. The Staff Report does not specify the types of voluntary renewable programs that would be eligible for such set-asides, although the Staff Report focuses on utility-sponsored programs. With respect to Native Energy's proposal that all voluntary renewable programs be eligible for the set-aside program, we have some concerns with the ability to verify claims made by providers of voluntary renewable programs other than the Vermont electric utilities. Utility-sponsored programs are subject to regulatory oversight and utilities are required to submit a tariff, which is reviewed by the Board and the Department of Public Service, before the tariff goes into effect. The Board would need additional information before allowing other voluntary renewable program providers to participate in the set-aside program. Accordingly, we direct Board staff to hold an additional workshop to address this issue.

Workshop participants noted that the Staff Report does not resolve all issues related to the set-aside program. We direct Board staff to hold an additional workshop to further outline a process for submitting claims for the set-aside program and to determine the methodology for calculating the number of allowances that should be retired in proportion to participation in the voluntary renewable programs.

We also clarify that any allowances not utilized by the voluntary renewable programs will be released to auction. Finally, the cap on the set-aside program is set at one percent, at this time; any increase in the cap would be made only after requesting comments on this issue.

#### **IV. CONCLUSION**

The June 30, 2008, Staff Report and Recommendation provides a reasonable approach to implementing a process to participate in the RGGI auctions and disburse proceeds resulting from the auction. We adopt the Report and Recommendation with the modifications discussed above. We further direct Board staff to hold an additional workshop to finalize details relating to the set-aside and retirement of allowances in proportion to participation in voluntary renewable programs. Finally, the Board will enter into contract negotiations with Batchelder Associates to serve as Trustee; any contract will be of limited duration and the Board intends to pursue a competitive bidding process to select a contractor to serve as Trustee in the future.

#### **V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. A Trustee will be appointed by the Board to release RGGI CO<sub>2</sub> allowances to auction and collect and disburse auction proceeds. The Trustee shall perform the necessary ministerial work involved in these tasks. The Board, after providing the opportunity for comment, will direct the Trustee as to the number of allowances to release to auction and how the funds should be disbursed. The Board will review the Trustee model annually for the first three years to ensure the effectiveness of this new program. The 2009 CO<sub>2</sub> allowances shall be released to auction on an even basis across each auction during the control period.

2. The Board will establish an informal Advisory Committee that is self-selecting; interested parties would ask to be put on an e-mail distribution list, to which all requests for Board action, comments, and Board decisions, would be sent. Prior to making substantive decisions regarding the use of the proceeds and allowances, the Board will request comments from the Advisory Committee. If the Board determines that a more formal advisory process is appropriate in the future, it may request comments on whether the current process should be altered. If, over time, the Board determines that the Advisory Committee is unwieldy or unbalanced, the Board may reestablish the committee through an appointment process wherein

the Board could establish guidelines for ensuring that various interests are represented and seek individuals who would represent these interests.

3. The Board will direct Board staff to work with the Advisory Committee to develop a process for informing interested parties regarding the RGGI auction process.

4. The Trustee shall collect auction proceeds and disburse the funds as directed by the Board, after comments from the Advisory Committee. The costs associated with the Trustee and Vermont's participation in RGGI, including administrative costs paid to RGGI, Inc., shall also be reimbursed by RGGI auction proceeds, pursuant to Section 255(c)(2)(B). Additionally, the Agency of Natural Resources ("ANR") and the Department of Public Service ("Department") shall have the opportunity to request that appropriate and reasonable administrative costs associated with their administration of RGGI be paid from the auction proceeds and to request funds to "stimulate or support investment in the development of innovative carbon emissions abatement technologies that have significant carbon reduction potential."<sup>3</sup> The payments to the Trustee and RGGI, Inc., are necessary costs that must be paid; however, the Advisory Committee shall have the opportunity to file comments before the Board acts upon any requests for auction proceeds by ANR and the Department. Remaining proceeds shall be deposited into the fuel efficiency fund created by 30 V.S.A. § 203a.

5. The Trustee shall withhold one percent of allowances from auction for retirement in proportion to participation in voluntary renewable programs. Any allowances not utilized for voluntary renewable programs shall be released to auction. Board staff will hold an additional workshop to further address the details of this process.

6. The Board will enter into negotiations with Batchelder Associates to serve as the Trustee. Any contract developed through this process will be of no more than one year in length, and the Board intends to conduct a competitive solicitation process to select a Trustee after Batchelder Associates' contract ends.

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3. 30 V.S.A. § 255(c)(2)(G).

Dated at Montpelier, Vermont, this 18th day of July, 2008.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: July 18, 2008

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*